

Appl. No. 10/776,851
Docket No. CM2687MQ
Amdt. dated April 24, 2008
Reply to Office Action mailed on January 30, 2008
Customer No. 27752

REMARKS

Claim Status

Claims 1, 3-7, 9, 12, and 21 are pending in the present application. Claims 2, 8, 10-11, and 13-20 were previously canceled without prejudice. Claim 1 has been amended. Support for the amendments can be found at least on page 9 lines 22-25, page 10, line 29 - page 11, line 4, and Figure 6 of the originally filed specification. It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested. No additional claims fee is believed to be due.

Double Patenting

The Office Action states that pending Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claim 5 of copending Application No. 11/717,234; Claims 7 and 16 of copending Application No. 11/717,235; and Claim 8 of copending Application No. 11/717,556. The provisional rejection is hereby acknowledged.

According to the provisions of MPEP 804, until such time as a provisional rejection becomes an actual rejection, no response is required. Additionally, since it cannot be foreseen with certainty which claims in the related Applications will eventually be allowed, no response other than the above acknowledgement will be made at this time.

The Rejection under 35 U.S.C. §103(a) over Tanzer

Claims 1, 3-7, and 12 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Tanzer, *et al.*, (WO 01/15647) (hereinafter, "Tanzer"). Applicants respectfully traverse this rejection, as the reference does not establish a *prima facie* case of obviousness. Specifically, the reference does not teach or suggest all of Applicants' claim

Appl. No. 10/776,851
Docket No. CM2687MQ
Amdt. dated April 24, 2008
Reply to Office Action mailed on January 30, 2008
Customer No. 27752

limitations, as required under MPEP 2143.03. Further, there is no suggestion or motivation to modify the reference, as required under MPEP 2143.01.

The present invention defines a particular solution to solving the problem of substantial wet immobilization of absorbent material containing a high percentage of absorbent polymer material, the solution being to hold absorbent material on a nonwoven substrate material through the use of a thermoplastic material. Tanzer relates to storing material inside of a pocket. Tanzer does not teach holding absorbent material on a substrate layer through the use of a thermoplastic material.

Tanzer does not teach or suggest all of Applicants' claim limitations. Amended Claim 1 requires that the absorbent core comprise first and second substrate layers, absorbent material deposited on both substrate layers, and a thermoplastic material that contacts at least portions of both the absorbent material and the substrate layers in order to immobilize the absorbent material on the substrate layers, wherein the first and second substrate layers are combined together such that the thermoplastic material of each substrate layer contacts one another. The wet immobilization of the present invention is achieved by immobilizing the absorbent material on the substrate layers.

Tanzer does not teach the absorbent article claimed in the present invention. Tanzer teaches a plurality of pre-formed pockets *formed in a substrate layer*, the pockets containing a superabsorbent material. The present invention is directed to *absorbent material deposited on a substrate layer*. In Tanzer, the pockets are utilized to hold the absorbent material in place. In the present invention, a thermoplastic material is used to hold the absorbent material on the substrate layer.

The plurality of pockets in Tanzer are formed in the surge layer and contain the superabsorbent material, which enables the surge layer to perform the dual functions of surge and absorbency (page 5, lines 19-22). Further, the pockets of Tanzer have a preferred distance apart (page 5, line 28 - page 6, line 2); a preferred depth (page 6, lines 3-7); and preferred shapes that are less likely to rupture during the stress of swelling or stretching of the superabsorbent (page 8, lines 3-11). The pockets of Tanzer expand toward each other

Appl. No. 10/776,851
Docket No. CM2687MQ
Amdt. dated April 24, 2008
Reply to Office Action mailed on January 30, 2008
Customer No. 27752

when the absorbent material becomes wet, and they may be shaped so that they touch each other during expansion (page 8, lines 3-4). Tanzer makes no mention of having an *absorbent material deposited on a substrate layer* and a thermoplastic material applied on top of the absorbent material and the substrate layer to immobilize the absorbent material on the substrate layer.

The absorbent material of the present invention is immobilized by the thermoplastic material, while the absorbent material of Tanzer is contained *inside pockets formed in the surge layer*. Amended Claim 1 of the present invention requires that thermoplastic material contacts at least portions of the absorbent material and at least portions of the substrate layer comprising a nonwoven material in order to *immobilize the absorbent material on the substrate layer*. Further, amended Claim 1 requires that the first and second substrate layers are combined together such that the thermoplastic material of each substrate layer contacts one another. Tanzer does not teach immobilizing the absorbent material on a substrate layer with a thermoplastic material.

Further, there is no suggestion or motivation to modify Tanzer to result in the present invention. Tanzer is directed to a combination of plural layers into a single layer, thereby reducing the total number of layers without yielding any function. Specifically, the Tanzer invention is directed to an absorbent article wherein the absorbent function is integrated into either the surge material or the outer cover material, eliminating the need for a separate central absorbent composite, by forming a plurality of small pockets in the surge material and/or the outer cover material (page 3, lines 1-10).

Amended claims of the present invention require an absorbent core comprising first and second substrate layers each having absorbent material deposited thereon and a thermoplastic material that contacts at least portions of the absorbent material and at least portions of the substrate layer in order to immobilize the absorbent material on the substrate layer, wherein the first and second substrate layers are combined together such that the thermoplastic material of each substrate layer contacts one another. One skilled in the art

Appl. No. 10/776,851
Docket No. CM2687MQ
Amdt. dated April 24, 2008
Reply to Office Action mailed on January 30, 2008
Customer No. 27752

would not be motivated by Tanzer's teaching of integrated layers to develop the absorbent article of the present invention.

For the foregoing reasons, the Office Action does not establish a prima facie case of obviousness. Therefore, Applicants assert that Claim 1, and all claims depending therefrom, is nonobvious over Tanzer. Accordingly, Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. § 103(a).

The Rejection under 35 U.S.C. §103(a) over Tanzer in view of Sauer

Claims 9 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Tanzer in further view of Sauer, U.S. Patent No. 5,527,300 (hereinafter, "Sauer"). Applicants respectfully traverse this rejection, as the references do not establish a *prima facie* case of obviousness.

As discussed above, Tanzer does not teach an absorbent core comprising first and second substrate layers, absorbent material deposited on both substrate layers, and a thermoplastic material that contacts at least portions of both the absorbent material and the substrate layers in order to immobilize the absorbent material on the substrate layers, wherein the first and second substrate layers are combined together such that the thermoplastic material of each substrate layer contacts one another. Sauer does not alleviate the shortcomings of Tanzer, as Sauer also does not teach the thermoplastic material of the present invention.


For the foregoing reasons, the Office Action does not establish a prima facie case of obviousness. Therefore, Applicants assert that Claim 9 is nonobvious over Tanzer in view of Sauer. Accordingly, Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. § 103(a).

Appl. No. 10/776,851
Docket No. CM2687MQ
Amdt. dated April 24, 2008
Reply to Office Action mailed on January 30, 2008
Customer No. 27752

CONCLUSION

In view of the above, Applicants respectfully submit that each of the issues raised by the Office Action has been addressed. Reconsideration and allowance of each of the pending claims is respectfully requested.

Respectfully submitted,
THE PROCTER & GAMBLE COMPANY

By 

Laura L. Whitmer
Registration No. 52,920
(513) 634-1597

Dated: April 24, 2008
Customer No. 27752